

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

HULISEZ G.,

Claimant,

vs.

SOUTH CENTRAL LOS ANGELES  
REGIONAL CENTER,

Service Agency.

OAH No. 2010031289

**DECISION**

Nancy Beezy Micon, Administrative Law Judge, Office of Administrative Hearings, heard this matter on August 18, 2011, in Los Angeles, California.

Claimant Hulisez G.<sup>1</sup> was represented by advocate Victoria Baca, M.Ed. Claimant was not present at the hearing. Claimant's mother, who was present at the hearing, utilized the services of an interpreter, Paola Gazzaneo.

Johanna Arias-Bhatia, Fair Hearing Manager, represented the South Central Los Angeles Regional Center (SCLARC, Regional Center, or Service Agency).

Oral and documentary evidence was received, and the matter was submitted for decision at the conclusion of the hearing on August 18, 2011.

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<sup>1</sup> First name and first initial of last name are used to identify Claimant and his mother in order to protect Claimant's privacy.

## ISSUE

Whether the Service Agency may terminate funding for claimant's Metropolitan Transit Authority (MTA) bus pass.

## EVIDENCE RELIED UPON

*Documents:* Service Agency's exhibits 1-8.

*Testimony:* Patricia Zelaya-Munoz, SCLARC service coordinator; Saul Lopez, SCLARC program manager; Karen R., claimant's mother.

## FACTUAL FINDINGS

1. Claimant is a 12-year-old boy, who is a consumer of SCLARC based on his qualifying diagnosis of Moderate Mental Retardation. He also has diagnoses of expressive language disorder, coordination disorder, and Rubenstein-Taybi Syndrome. He is non-verbal. Claimant sees various medical specialists who monitor his health. Claimant's mother estimates that she takes claimant to medical appointments approximately four to ten times per month.<sup>2</sup> Patricia Zelaya-Munoz, claimant's service coordinator, testified that her understanding, based on claimant's individual program plan (IPP), is that claimant has six visits with his doctors every three months and visits his dentist two times per year. Claimant lives at home with his mother.

2. The Service Agency has funded a MTA monthly bus pass for claimant. The bus pass is for the transport of claimant to and from his medical and dental appointments.

3. Ms. Zelaya-Munoz informed claimant's mother that, as of November 22, 2010, the MTA would be changing its practice concerning the issuance of MTA bus passes. In the past, claimant was issued a bus pass in the form of a card with no identifying photograph on it, and a sticker was added to the card for each month of use. Both claimant and his mother were able to ride the bus using the former MTA bus pass under the previous system. Under the new system, which went into effect as of June 1, 2011, the MTA issues a "TAP" card, which contains a photograph of the passenger (claimant) and is automatically updated each month when the Service Agency provides funds to MTA. The new practice involves claimant swiping the TAP card when he uses the bus. Claimant's mother is unable to use claimant's TAP card for her transportation.

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<sup>2</sup> This testimony was not supported by other evidence.

4. By a Notice of Proposed Action (NOPA) letter dated February 17, 2010, the Service Agency informed claimant of its decision to terminate funding for the MTA monthly bus pass. The Service Agency wrote that “[y]ou are not eligible for continuation of the requested services(s) because: Generic resources are available to you to help you obtain a monthly MTA Bus Pass at reduced cost. The City Ride Program allows disabled individuals to purchase 84 transportation scripts for \$6 (valid for a three month period following purchase). These scripts will allow you to purchase your month[ly] bus pass for only 14 scripts per month for the three months designated by the script purchase date. Therefore, SCLARC will terminate funding for your MTA bus pass within thirty days, allowing you sufficient time to apply for the City Ride Program. A City Ride application will be provided to you with this Notice of Action.” The NOPA letter cited various sections of the Lanterman Developmental Disabilities Services Act (Lanterman Act) pertaining to the use of generic services and resources, including Welfare and Institutions Code sections 4644, 4646, 4646.4, 4647, 4659, and 4648, in support of the Service Agency’s decision.<sup>3</sup>

5. On March 5, 2010, claimant’s mother submitted to SCLARC a Fair Hearing Request on claimant’s behalf, appealing the termination of funding for claimant’s MTA monthly bus pass.

6. Ms. Zelaya-Munoz testified that, to obtain the MTA pass for passengers with disabilities, claimant’s mother must complete a Disabled TAP Identification Card application, which will require a photograph of claimant. (Ex. 7.) She also testified that the City of Los Angeles City Ride Program for disabled children and adults involves the purchase of fare scrip at a discounted rate; the scrip may be used to purchase fares for various means of transportation, including taxis, vans, bus passes, and TAP. (Ex. 8.) The TAP card covers only claimant; claimant’s mother would need to pay for her own TAP card. Ms. Zelaya-Munoz spoke with claimant’s mother about the changes to the MTA system. Claimant’s mother was confused about the changes; she did not want a bus pass with claimant’s photograph on it. Claimant did not want to pursue the new program. SCLARC therefore issued the NOPA.

7. Saul Lopez, SCLARC program manager and Ms. Zelaya-Munoz’s supervisor, testified that the Service Agency can only fund a TAP card for claimant. Mr. Lopez also testified that claimant could qualify for ACCESS, a program that would pick him and his mother up at home and take them to and from all medical appointments.

8. Claimant’s mother testified that her son has frequent medical appointments and she must accompany him to all such appointments. She testified that, in the past, Regional Center funded an MTA bus pass, which enabled her to board the bus with claimant.

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<sup>3</sup> All further statutory references are to the California Welfare and Institutions Code, unless otherwise stated.

When the Service Agency funding stopped, she purchased a bus pass for herself at a cost of \$75 and for claimant at a cost of \$25. She has not yet applied for a TAP pass or for transportation under the City Ride Program. The ACCESS transportation system is not a viable option for claimant due to the logistics of that program.

9. SCLARC offered to provide funds for Claimant to purchase an MTA TAP card. The offer was declined because Claimant's mother felt SCLARC should provide funding for both claimant and she to ride the bus. Claimant's mother did not cooperate with SCLARC in filling out paperwork to obtain a TAP card for claimant. At the time of hearing, claimant's mother had not yet availed herself of SCLARC's offer to assist her in completing an application to obtain City Ride scrip.

10. It is undisputed that claimant cannot ride the bus on his own.

11. Claimant did not present evidence to show claimant's mother is unable to pay the amount required to purchase transportation under the City Ride Program.

### LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. (§ 4500 et seq.) An administrative "fair hearing" to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.) Claimant requested a fair hearing to appeal the Service Agency's decision to terminate funding for claimant's MTA bus pass. Jurisdiction in this case was thus established. (Factual Findings 1-11.)

2. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, the Service Agency bears the burden of proving, by a preponderance of the evidence, that it is entitled to terminate funding for claimant's MTA monthly bus pass. (Evid. Code, § 115.)

3. The Lanterman Act is a comprehensive statutory scheme to provide "[a]n array of services and supports . . . which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community." (§ 4501.) The services and supports should "enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age." (*Id.*)

4. The services and supports to be provided to a consumer are determined in the IPP process on the basis of the needs and preferences of the consumer and a consideration of a range of service options proposed by the IPP participants, the effectiveness of each option in meeting the goals stated in the IPP, and the cost-effectiveness of each option. (§ 4512, subd. (b).) The planning process shall include the development of a transportation access plan, which

shall identify the services and supports necessary to assist the consumer in accessing public transportation and shall comply with Section 4648.35. . . . Regional centers are encouraged to coordinate with local public transportation agencies.

(§ 4646.5, subd. (a)(6)(B).) Section 4648.35 provides, in pertinent part, that  
[¶] . . . [¶]

(b) A regional center shall fund the least expensive transportation modality that meets the consumer's needs, as set forth in the consumer's IPP or IFSP.

[¶] . . . [¶]

(d) A regional center shall fund transportation services for a minor child living in the family residence, only if the family of the child provides sufficient written documentation to the regional center to demonstrate that it is unable to provide transportation for the child.

5. The internal planning process must ensure the “[u]tilization of generic services and supports when appropriate.” (§ 4646.4, subd. (a)(2); see also § 4659, subs. (a)(1), (d).)

6. The Service Agency established by a preponderance of the evidence that it may terminate funding for claimant's MTA monthly bus pass and, in its place, provide funding for claimant to receive MTA reduced-fare TAP passes. Claimant's mother would like to continue to receive a bus pass for claimant. The bus pass, however, is no longer available. SCLARC is therefore unable to fund this request. Further, the evidence indicates that claimant's mother will be able to use the TAP passes provided to claimant to purchase her own transportation in order to accompany claimant to and from his medical appointments. (Factual Findings 1-11.)

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## ORDER

Claimant's appeal is denied. SCLARC may terminate funding for claimant's MTA monthly bus pass. In the place of a bus pass, SCLARC is required to provide funding for the purchase of claimant's MTA TAP passes.

DATED: September 23, 2011

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Nancy Beezy Micon  
Administrative Law Judge  
Office of Administrative Hearings

## NOTICE

**This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.**